IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 8889 of 1996

Between:

Ex. J.W.O., J.L.N., Reddy, (S.No.637808-T) S/o. Kista Reddy, Ex.Serviceman, residing at KPHB colony,
Kukatpally, Hyderabad.

..... PETITIONER

AND

1 The Union of India, Rep. by its Secretary to Defence, Ministry of Defence, New Delhi.
2 TheChief Controller of Defence Accounts (Pensions), Allahabad, Uttar Pradesh.
3 The Deputy Controller of Defence Accounts, (Air Force), Subrotopark, New Delhi - 10.
4 Air Officer- in - Charge, A.F., Records, Air Force Records Officer, Subroto Park, New Delhi-10
5 Air Officer Commanding, Air Force Station, Hakimpet, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pleased to issue a writ, order or Direction, more particularly one in the nature of writ of Mandamus, declaring the letter NO. A/49779/Ag/Ps-4(C)1313/A/D/(Pension/Services) dated 23-7-1979 issued by the first respondent as arbitrary, unjust and illegal and consequently direct the respondents to sanction pension to the petitioner taking into consideration of the last salary drawn by the petitioner in the rank of Junior Warrant Officer with all consequential benefits and pass.

Counsel for the Petitioner: MR.V.JAGAPATHI

Counsel for the Respondent Nos.1 to 5: Advocate General

The Court made the following:

:ORAL ORDER:

The petitioner was serving in an Air Force as Sergeant in Group-I Trade having entered service in December, 1979. He was promoted pursuant to a promotion panel 1995-96, to the rank of Junior Warrant Officer with effect from 01-02-1996. On 17-07-1995 the petitioner sought discharge from service with a view to improve his educational qualification for eventual improvement of a career in the civil life. Accepting petitioner's request, he was discharged from the Indian Air Force with effect from 07-04-1996. In the category of Junior Warrant Officer, the petitioner, therefore, served during 01-02-1996 to 07-04-1996 i.e., for a period of two (2) months and seven (7) days. Admittedly, the petitioner was governed by Pension Regulations, 1961. These Pension Regulations ordain that 'service pension' is assessed on the lowest substantive rank and lowest group held by an individual during the last ten (10) months of service qualifying for pension. Paragraph-123 of Pension Regulations, 1961, permits condonation of deficiency of service in a particular rank, by the competent authority, for a period not exceeding 'three months', except on voluntary retirement.

As the petitioner sought discharge from service and served in the category of Junior Warrant Officer only for a period of two months and seven days, he falls far short of either the minimum qualifying service for pension of ten (10) months or the condonable period not exceeding three months qua Paragraphs-122 and 123 of Pension Regulations, 1961.

In this writ petition, the claim is for grant of pension in the category of 'Junior Warrant Officer'. The Pension Regulations, 1961, as analyzed above, do not permit grant of this claim to the petitioner.

In the counter affidavit filed by the respondents, it is admitted that the

petitioner's claim for pensionary benefits would be processed in the substantive category of Sergeant, as he has the qualifying service for pension in the said category alone.

On analysis of the relevant facts and circumstances of the case, the petitioner's claim is misconceived as is the writ petition. The writ petition is, accordingly, dismissed. No costs.

GODA RAGHURAM, J

Dt. 02-08-2004

Pvks/*

To

1 The Secretary to Defence, The Union of India, Ministry of Defence, New Delhi.
2 The Chief Controller of Defence Accounts (Pensions), Allahabad, Uttar Pradesh.
3 The Deputy Controller of Defence Accounts, (Air Force), Subrotopark, New Delhi - 10.
4 Air Officer- in - Charge, A.F., Records, Air Force Records Officer, Subroto Park, New Delhi-10
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6 2 CCs to the Advocate General, High Court of A.P., Hyderabad(O.U.T).

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